

## **TITLE 6. LEGISLATIVE ETHICS AND ADJUDICATION OF ETHICS COMPLAINTS**

### **CHAPTER 1. ETHICS REQUIREMENTS GOVERNING LEGISLATORS**

#### **Part 1. Ethical Standards for Legislators**

##### **JR6-1-101. Legislative Ethics.**

(1) The Utah Legislature consists of people who work part-time and must necessarily earn their living in other jobs and professions.

(2) It is necessary to reconcile the functions of privately employed legislators who have their own private interests with the maintenance of high ethical standards and public confidence.

(3) In seeking to balance these interests, it is necessary to avoid controls that might be so strict that they discourage capable and honorable persons from entering legislative service.

(4) It is recognized that public confidence in the Legislature should be promoted and that competent members should serve in the Legislature even though most of them have private interests of various types.

(5) It is also recognized that a citizen legislator is in a different position in doing business with the state and its political subdivisions than a public servant whose chief source of livelihood is derived from public funds.

##### **JR6-1-102. Code of Official Conduct.**

(1) Each legislator shall comply with the guidelines established in Subsection (2).

(2) In judging members of its house charged with an ethical violation, the Senate and House Ethics Committees shall consider whether or not the member has violated any of the following guidelines:

(a) Members of the Senate and House shall not engage in any employment or other activity that would destroy or impair their independence of judgment.

(b) Members of the Senate and House shall not be paid by a person, as defined in JR6-1-202, to lobby, consult, or to further the interests of any legislation or legislative matter.

(c) Members of the Senate and House shall not exercise any undue influence on any governmental entity.

(d) Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.

(e) Members of the Senate and House may engage in business or professional activity in competition with others, but shall not use any information obtained by reason of their official position to gain advantage over any competition for activities with the state and its political subdivisions.

(f) Members of the Senate and House shall not engage in any business relationship or activity that would require the disclosure of confidential information obtained because of their official position.

(g) Members of the Senate and House shall not use their official position to secure privileges for themselves or others.

(h) While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter as provided in JR6-1-201.

(i) Members of the Senate and House may accept small gifts, awards, or contributions if these favors do not influence them in the discharge of official duties.

(j) Except as provided in Subsection (3), members of the Senate and the House may engage in business or professional activities with the state or its political subdivisions if the activities are entered into under the same conditions and in the same manner applicable to any private citizen or company engaged in similar activities.

(k) Legislators may enter into transactions with the state by contract by following the procedures and requirements of Title 63, Chapter 56, Utah Procurement Code.

(3) (a) As also required by Section 36-19-1, a legislator, member of the legislator's household, or client may not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator, unless the contract is let in compliance with state procurement policies and is open to the general public.

(b) Besides the penalties authorized by these rules, Section 36-19-1 also provides that any person violating this section is guilty of a class B misdemeanor.

## **Part 2. Conflicts of Interest**

### **JR6-1-201. Declaring and Recording Conflicts of Interest -- Financial Disclosure Form.**

(1) As used in this section, "conflict of interest" is as defined in Section 76-8-109.

(2) A legislator shall file a financial disclosure form in compliance with Section 76-8-109 and according to the requirements of this section:

(a) on the first day of each general session of the Legislature; and

(b) each time the legislator changes employment.

(3) The financial disclosure form shall include the disclosures required by Section 76-8-109.

(4) (a) The financial disclosure form shall be filed with:

(i) the Secretary of the Senate, for a legislator that is a Senator; or

(ii) the Chief Clerk of the House of Representatives, for a legislator that is a Representative.

(b) The Secretary of the Senate and the Chief Clerk of the House of Representatives shall ensure that:

(i) blank financial disclosure forms are made available on the Internet and at the offices of the Senate and the House of Representatives; and

(ii) financial disclosure forms filed under this rule are made available to the public on the Internet and at the offices of the Senate or the House of Representatives.

(5) (a) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest which is not stated on the financial disclosure form, that legislator shall orally declare to the committee or body before which the matter is pending:

(i) that the legislator may have a conflict of interest; and

(ii) what that conflict is.

(b) The Secretary of the Senate or the Chief Clerk of the House of Representatives shall:

(i) direct committee secretaries to note the declaration of conflict of interest in the minutes of any committee meeting; and

(ii) ensure that each declaration of conflict declared on the floor is noted in the Senate Journal or House Journal.

(6) This requirement of disclosure of any conflict of interest does not prohibit a legislator from voting on any legislation or legislative matter.

#### **JR6-1-202. Disclosure of Outside Remuneration.**

(1) As used in this section:

(a) "Person" includes an individual, partnership, association, organization, company, and bodies politic and corporate or a lobbyist from any of these.

(b) "Person" does not include a person who provides the legislator's primary source of income.

(2) If any person provides remuneration to a legislator to compensate that legislator for a loss of salary or income while the Legislature is in session, that legislator shall file a written disclosure identifying:

(a) that the legislator receives remuneration; and

(b) the name of the person who provides the remuneration.

(3) (a) The legislator shall file the disclosure by February 1 of each year with:

(i) the Secretary of the Senate, if the legislator is a Senator; or

(ii) the Chief Clerk of the House of Representatives, if the legislator is a Representative.

(b) This disclosure is available to the public.

### **Part 3. Ethics Training**

#### **JR6-1-301. Ethics Training Course -- Internet Availability -- Content -- Participation Tracking.**

(1) The Office of Legislative Research and General Counsel shall develop and maintain an ethics training course for members of the Legislature and lobbyists.

(2) The ethics training course shall include training materials and exercises that are available on the Internet to legislators, lobbyists, and to the public.

(3) The ethics training course shall be designed to assist legislators and lobbyists in understanding and complying with current ethical and campaign finance requirements under state law, legislative rules, and federal law.

(4) The ethics training course shall include provisions for verifying when a legislator or lobbyist has successfully completed key training exercises.

(5) A legislator or lobbyist shall successfully complete the key training exercises of the ethics training course once each year or as directed by the Legislative Management Committee.

(6) A lobbyist who does not complete the training required by this rule is subject to an ethics complaint under Senate or House rule.

## **CHAPTER 2. HOUSE AND SENATE ETHICS COMMITTEES AND INDEPENDENT LEGISLATIVE ETHICS COMMITTEES**

### **Part 1. Membership, Meetings, and Staff**

**JR6-2-101. Ethics Committees -- Membership.**

- (1) There is established a Senate Ethics Committee and a House Ethics Committee.
- (2) The Senate Ethics Committee shall be composed of:
  - (a) the chair and three additional Senators appointed by the President of the Senate; and
  - (b) the vice chair and three additional Senators appointed by the Senate minority leader.
- (3) The House Ethics Committee shall be composed of:
  - (a) the chair and three additional Representatives appointed by the Speaker of the House of Representatives; and
  - (b) the vice chair and three additional Representatives appointed by the House minority leader.
- (4) A committee member shall serve a two-year term.
- (5) (a) If a member of an ethics committee is accused of wrongdoing in a complaint to be reviewed by the committee, or if a member of an ethics committee determines that he or she has a conflict of interest in relation to a complaint to be reviewed by the ethics committee, a member of the Senate or House shall be appointed to temporarily serve in that member's place while the complaint is under review as follows:
  - (i) except as provided in Subsection (5)(a)(ii), the member shall be appointed by the person who appointed the member who is being temporarily replaced, consistent with Subsection (2), for a member of the Senate Ethics Committee, or Subsection (3), for the House Ethics Committee; or
  - (ii) if the person designated to make the appointment under Subsection (5)(a)(i) is accused of wrongdoing in the complaint or determines that he or she has a conflict of interest in relation to the complaint, the appointment shall be made by:
    - (A) the Senate majority leader, if the person designated is the President of the Senate;
    - (B) the Senate minority whip, if the person designated is the Senate minority leader;
    - (C) the House majority leader, if the person designated is the Speaker of the House; or
    - (D) the House minority whip, if the person designated is the House minority leader.
- (b) The temporary committee member's term ends when the committee has concluded its review of the complaint.

**JR6-2-102. Ethics Committee -- Meetings and Staff.**

- (1) The Senate and House Ethics Committees shall operate as both standing and interim committees.
- (2) The committees shall meet as necessary, either as called at:
  - (a) the discretion of the chair; or
  - (b) by a majority vote of the committee.
- (3) A majority of the committee is a quorum.
- (4) The staff of each committee consists of:
  - (a) the director of the Office of Legislative Research and General Counsel;
  - (b) the Legislative General Counsel; and
  - (c) any other staff designated by the director or the Legislative General Counsel.

**JR6-2-103. Independent Legislative Ethics Commission -- Membership.**

- (1) There is established an Independent Legislative Ethics Commission.
- (2) The commission is composed of five persons, each of whom is registered to vote in

this state, appointed as follows:

(a) two members, who have served, but no longer serve, as judges of a court of record in this state, each of whom shall be nominated by the mutual consent of the President of the Senate and the Speaker of the House, and appointed by a majority vote of the President of the Senate, Speaker of the House, Senate minority leader, and House minority leader;

(b) one member, who has served, but no longer serves, as a judge of a court of record in this state, nominated by the mutual consent of the Senate minority leader and the House minority leader, and appointed by a majority vote of the President of the Senate, Speaker of the House, Senate minority leader, and House minority leader;

(c) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the President of the Senate and the Speaker of the House of Representatives; and

(d) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the Senate minority leader and House minority leader.

(3) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) an officeholder as defined in Section 20A-11-101;

(b) an agency head as defined in Section 67-16-3;

(c) a lobbyist as defined in Section 36-11-102; or

(d) a principal as defined in Section 36-11-102.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, one member nominated by the President of the Senate and the Speaker of the House of Representatives and one member nominated by the Senate minority leader and House minority leader shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this rule, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the President of the Senate, Speaker of the House, Senate minority leader, and House minority leader.

(e) The chair of the Legislative Management Committee shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude;

or

(iii) fails to meet the qualifications of office as provided in this rule.

(f) If a commission member is accused of wrongdoing in a complaint, or if a commission

member determines that he or she has a conflict of interest in relation to a complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).

(5) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(6) (a) The commission members shall convene a meeting annually each January and elect, by a majority vote, a commission chair from among the commission members.

(b) A person may not serve as chair for more than two consecutive years.

#### **JR6-2-104. Independent Legislative Ethics Commission -- Meetings -- Staff.**

(1) The Independent Legislative Ethics Commission shall meet for the purpose of reviewing an ethics complaint when:

(a) except otherwise expressly provided in this title, called to meet at the discretion of the chair; or

(b) called to meet by a majority vote of the commission.

(2) A majority of the commission is a quorum.

(3) (a) The commission shall prepare, on an annual basis, a summary data report that contains:

(i) a general description of the activities of the commission during the past year;

(ii) the number of ethics complaints filed with the commission;

(iii) the number of ethics complaints reviewed by the commission;

(iv) the number of complaints filed against a member of the House of Representatives;

(v) the number of complaints filed against a member of the Senate;

(vi) a summary description of any ethics complaints that were recommended by the commission for review by a Legislative ethics committee; and

(vii) an accounting of the commission's budget and expenditures.

(b) The summary data report shall be submitted to an appropriate committee of the Legislature on an annual basis.

(c) The summary data report shall be a public record.

(4) (a) The Senate and the House of Representatives shall employ staff for the commission at a level that is reasonable to assist the commission in performing its duties as established in this chapter.

(b) The Legislative Management Committee shall:

(i) authorize each staff position for the commission; and

(ii) approve the employment of each staff member for the commission.

(c) Staff for the commission shall work only for the commission and may not perform services for the Senate, House of Representatives, or other legislative offices.

## **Part 2. General Powers and Procedures**

### **JR6-2-201. Authority to Review Complaint -- Grounds for Complaint -- Limitations on Filings.**

(1) Subject to the requirements of this chapter, the Senate Ethics Committee, the House Ethics Committee, and the Independent Legislative Ethics Commission are authorized to review an ethics complaint against a legislator if the complaint alleges:

- (a) a violation of the Code of Official Conduct as provided in JR6-1-102;
- (b) a conviction of, or a plea of guilty to, a crime involving moral turpitude; or
- (c) a plea of no contest or a plea in abeyance to a crime involving moral turpitude.

(2) (a) For an alleged violation under Subsection (1)(a), the complaint must be filed within two years of the date that the action or omission that forms the basis of the alleged violation occurred or within two years of the date that the action or omission would have been discovered by a reasonable person.

(b) For an alleged violation under Subsection (1)(b) or (1)(c), the complaint shall be filed within two years of the date that the plea or conviction that forms the basis of the allegation was entered.

(3) (a) A complaint may not contain an allegation if that allegation and the general facts and circumstances supporting that allegation have been previously reviewed by the commission or an ethics committee unless:

(i) the allegation was previously reviewed by the commission and dismissed without being referred to an ethics committee for review;

(ii) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission when the allegation was previously reviewed; and

(iii) the allegation and the general facts and circumstances supporting that allegation have only been reviewed by the commission on one previous occasion.

(b) If an allegation in the complaint does not comply with the requirements of Subsection (3)(a), the allegation shall be summarily dismissed with prejudice by:

(i) the chair of the Independent Legislative Ethics Commission, when reviewing the complaint under JR6-4-101; or

(ii) the commission, when reviewing the complaint under JR6-4-201.

#### **JR6-2-202. General Powers -- Jurisdiction.**

(1) The commission and the committees have jurisdiction only over an individual who is currently serving in the Legislature.

(2) The commission and the committees shall dismiss an ethics complaint if the respondent legislator resigns from the Legislature.

### **Part 3. General Provisions Governing Hearings on Ethics Complaint**

#### **JR6-2-301. General Procedures for Conducting a Hearing on an Ethics Complaint.**

(1) In conducting a hearing on a complaint, the Independent Legislative Ethics Commission or the Senate or House Ethics Committee shall comply with the following process in the order specified:

(a) introduction and instructions for procedure and process, at the discretion of the chair;

(b) complainants' opening argument, to be presented by a complainant or complainants' counsel;

(c) complainants' presentation of evidence and witnesses in support of allegations in the

complaint;

(d) consideration of motions to dismiss the complaint or motions for a directed verdict, as applicable;

(e) respondent's opening argument, to be presented by the respondent or respondent's counsel;

(f) respondent's presentation of evidence and witnesses refuting allegations in the complaint;

(g) presentation of rebuttal evidence and witnesses by the complainants, at the discretion of the chair;

(h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;

(i) complainants' closing argument, to be presented by a complainant or complainants' counsel;

(j) respondent's closing argument, to be presented by the respondent or respondent's counsel;

(k) deliberations by the commission or committee; and

(l) adoption of the commission's or committee's findings.

(2) The commission or an ethics committee may, in extraordinary circumstances, vary the order contained in Subsection (1) by majority vote and by providing notice to the parties.

(3) The chair may schedule the examination of a witness or evidence subpoenaed at the request of the chair or the committee under JR6-2-303 at the chair's discretion.

#### **JR6-2-302. Chair as Presiding Judge.**

(1) Except as expressly provided otherwise in this title, the chair of the Independent Legislative Ethics Commission and the chair of the Senate or House Ethics Committee is vested with the power to direct the commission or committee during meetings authorized by this title.

(2) Unless expressly prohibited from doing so under this title, the commission or committee may overrule a decision of the chair by using the following procedure:

(a) If a member objects to a decision of the chair, that member may appeal the decision by stating:

(i) "I appeal the decision of the chair."; and

(ii) the basis for the objection.

(b) This motion is nondebatable.

(c) The chair shall direct a roll call vote to determine if the commission or committee supports the decision of the chair.

(d) A majority vote of the commission or committee is necessary to overrule the decision of the chair.

(3) The chair may set time limitations on any part of a meeting or hearing authorized by this title.

#### **JR6-2-303. Subpoena Powers.**

(1) For all proceedings authorized by this title, the Independent Legislative Ethics Commission or the Senate or House Ethics Committee may issue a subpoena to:

(a) require the attendance of a witness;

(b) direct the production of evidence; or



- (c) require both the attendance of a witness and the production of evidence.
- (2) The commission shall issue a subpoena under this rule:
  - (a) as required under JR6-2-305;
  - (b) at the direction of the commission chair, if the chair determines that the testimony or evidence is relevant to the review of a complaint under Chapter 4, Part 2, Review of Ethics Complaint by the Independent Legislative Ethics Commission; or
  - (c) upon a vote of a majority of the commission members.
- (3) An ethics committee shall issue a subpoena under this rule:
  - (a) as required under JR6-2-305;
  - (b) at the direction of the committee chair or vice chair, if the chair or vice chair determines that the testimony or evidence is relevant to review of a complaint under Chapter 4, Part 3, Review of Ethics Complaint by Ethics Committee; or
  - (c) upon a vote of a majority of the committee members.
- (4) The Director of the Office of Legislative Research and General Counsel shall issue a subpoena on behalf of an ethics committee when requested to do so by one of the persons or entities authorized to do so under Subsection (3).

**JR6-2-304. Contempt of the Legislature.**

(1) (a) The following actions constitute contempt of the Legislature in relation to actions and proceedings under this title:

- (i) disobedience to a direction of the commission chair;
- (ii) disobedience to a direction of an ethics committee chair;
- (iii) failure to answer a question during a hearing when directed to do so by:
  - (A) the commission chair, unless the direction is overridden by the commission under JR6-2-302;
  - (B) an ethics committee chair, unless the direction is overridden by the committee under JR6-2-302; or
  - (C) a majority of the commission or committee;
- (iv) failure to comply with a subpoena or other order issued under authority of this title;
- (v) violation of privacy provisions established by JR6-3-102;
- (vi) violation of the communication provisions established by JR6-2-306;
- (vii) violation of a request to comply with a provision of this title by a chair or a majority of the members of the commission or committee; or
- (viii) any other ground that is specified in statute or recognized at common law.

(b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.

(2) (a) The following persons may authorize an enforcement action against a person in contempt of the Legislature under the provisions of this title:

- (i) the commission chair, subject to the provisions of JR6-2-302;
- (ii) members of the commission, by means of a majority vote;
- (iii) an ethics committee chair, subject to the provisions of JR6-2-302; or
- (iv) members of an ethics committee, by means of a majority vote.

(b) In initiating and pursuing an action against an individual for contempt of the

Legislature, the plaintiff shall comply with the procedures and requirements of Section 36-14-5.

**JR6-2-305. Testimony and Examination of Witnesses -- Oath -- Procedure -- Contempt.**

(1) (a) The chair shall ensure that each witness listed in the complaint and response is subpoenaed for appearance at the hearing unless:

- (i) the witness is unable to be properly identified or located; or
- (ii) service is otherwise determined to be impracticable.

(b) The chair shall determine the scheduling and order of witnesses and presentation of evidence.

(c) The commission or committee may, by majority vote:

- (i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);
  - (ii) modify the chair's determination on the scheduling and order of witnesses under Subsection (1)(b);
  - (iii) decline to hear or call a witness that has been requested by the complainant or respondent;
  - (iv) decline to review or consider evidence submitted in relation to an ethics complaint;
- or

(v) request and subpoena witnesses or evidence according to the procedures of JR6-2-303.

(2) (a) Each witness shall testify under oath.

(b) The chair or the chair's designee shall administer the oath to each witness.

(3) After the oath has been administered to the witness, the chair shall direct testimony as follows:

- (a) allow the party that has called the witness, or that party's counsel, to question the witness;
- (b) allow the opposing party, or that party's counsel, to cross-examine the witness;
- (c) allow additional questioning by a party or a party's counsel as appropriate;
- (d) give commission or committee members the opportunity to question the witness; and
- (e) as appropriate, allow further examination of the witness by the commission or committee, or the parties or their counsel.

(4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:

- (i) direct the witness to answer; or
- (ii) rule that the witness is not required to answer the question.

(b) If the witness declines to answer a question after the chair or a majority of the commission or committee determines that the witness is required to answer the question, the witness may be held in contempt as provided in JR6-2-304.

(5) (a) The chair or a majority of the members of the commission or committee may direct a witness to furnish any relevant evidence for consideration if the witness has brought the material voluntarily or has been required to bring it by subpoena.

(b) If the witness declines to provide evidence in response to a subpoena, the witness may be held in contempt as provided in JR6-2-304.

**JR6-2-306. Communications of Commission and Committee Members.**

(1) As used in this section, "third party" means:

(a) for a member of the Independent Legislative Ethics Commission, a person who is not a member of the commission or staff to the commission; or

(b) for a member of an ethics committee, a person who is not a member of the committee or staff to the committee.

(2) While a complaint is under review by the commission or an ethics committee, a member of that commission or committee may not initiate or consider any communications concerning the complaint with a third party unless:

(a) the communication is expressly permitted under the procedures established by this title; or

(b) the communication is made by the third party, in writing, simultaneously to:

(i) all members of the commission or committee; and

(ii) a staff member of the commission or committee.

(3) (a) While the commission is reviewing a complaint under this title, a commission member may communicate outside of the meetings, hearing, or deliberations with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

(b) While a committee is reviewing a complaint under this title, a committee member may communicate outside of the meeting, hearing, or deliberations with another member of, or staff to, the committee, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

(4) While a complaint is under review by an ethics committee, a member of the commission may not comment publicly or privately about the commission's decision, reasoning, or other matters relating to the ethics complaint, but may provide or refer a questioner to the commission's written recommendation.

#### **JR6-2-307. Attorney Fees and Costs.**

(1) A person filing a complaint under this title:

(a) may, but is not required to, retain legal representation during the complaint review process; and

(b) is responsible for payment of complainants' attorney fees and costs incurred.

(2) (a) A legislator against whom a complaint is filed under this title:

(i) may, but is not required to, retain legal representation during the complaint review process; and

(ii) is responsible for that legislator's own attorney fees and costs involved, except as provided in Subsection (2)(b).

(b) The Senate, for a Senator, or the House of Representatives, for a Representative, shall pay the reasonable attorney fees and costs incurred by a legislator against whom a complaint is filed under this title if:

(i) the commission declines to recommend that any allegation in the complaint be reviewed by an ethics committee; or

(ii) an ethics committee determines that none of the allegations in the complaint that were recommended for review by the commission have been proved.

(3) (a) An attorney participating in a hearing before the commission or an ethics committee shall comply with:

- (i) the Rules of Professional Conduct established by the Utah Supreme Court;
  - (ii) the procedures and requirements of this title; and
  - (iii) the directions of the chairs, commission, and ethics committees.
- (b) Violations of Subsection (3)(a) may constitute:
- (i) contempt of the Legislature under JR6-2-304; or
  - (ii) a violation of the Rules of Professional Conduct subject to enforcement by the Utah State Bar.

### **CHAPTER 3. FILING A COMPLAINT ALLEGING A VIOLATION OF LEGISLATIVE ETHICS**

#### **JR6-3-101. Ethics Complaints -- Filing -- Form.**

(1) (a) The following individuals, who shall be referred to as the complainants, may file a complaint against an individual legislator if the complaint meets the requirements of JR6-2-201 and Subsection (1)(b):

(i) two or more members of the House of Representatives, for a complaint against a Representative, provided that the complaint contains evidence or sworn testimony that:

(A) sets forth facts and circumstances supporting the alleged violation; and

(B) is evidence or sworn testimony of the type that would generally be admissible under the Utah Rules of Evidence;

(ii) two or more members of the Senate, for a complaint against a Senator, provided that the complaint contains evidence or sworn testimony that:

(A) sets forth facts and circumstances supporting the alleged violation; and

(B) is evidence or sworn testimony of the type that would generally be admissible under the Utah Rules of Evidence; or

(iii) two or more registered voters currently residing within Utah, if, for each alleged violation pled in the complaint, at least one of those registered voters has actual knowledge of the facts and circumstances supporting the alleged violation.

(b) A complainant may file a complaint only against an individual who is serving as a member of the Legislature on the date that the complaint is filed.

(2) (a) Complainants shall file a complaint with the chair of the Independent Legislative Ethics Commission.

(b) An individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election, if the accused legislator is a candidate in the primary election; or

(ii) a regular general election in which the accused legislator is a candidate, unless the accused legislator is unopposed in the election.

(3) The complainants shall ensure that each complaint filed under this rule is in writing and contains the following information:

(a) the name and position or title of the legislator alleged to be in violation, who shall be referred to as the respondent;

(b) the name, address, and telephone number of each individual who is filing the complaint;

- (c) a description of each alleged violation, including for each alleged violation:
  - (i) a reference to:
    - (A) the section of the code of conduct alleged to have been violated; or
    - (B) the criminal provision violated and the docket number of the case involving the legislator;
  - (ii) the name of the complainant or complainants who have actual knowledge of the facts and circumstances supporting each allegation;
  - (iii) the facts and circumstances supporting each allegation, which shall be provided by:
    - (A) copies of official records or documentary evidence; or
    - (B) one or more affidavits, each of which shall comply with the following format:
      - (I) the name, address, and telephone number of the signer;
      - (II) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;
      - (III) the facts and circumstances testified to by the signer;
      - (IV) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and
      - (V) the signature of the signer;
  - (d) a list of the witnesses that the complainants wish to have called, including for each witness:
    - (i) the name, address, and, if available, one or more telephone numbers of the witness;
    - (ii) a brief summary of the testimony to be provided by the witness; and
    - (iii) a specific description of any documents or evidence complainants desire the witness to produce;
  - (e) a statement that each complainant:
    - (i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;
    - (ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and
    - (iii) believes the allegations contained in the complaint to be true and accurate; and
  - (f) the signature of each complainant.

**JR6-3-102. Privacy of Ethics Complaints -- Contempt -- Enforcement of Finding of Contempt -- Dismissal.**

- (1) (a) Except as provided in Subsection (1)(b) or (c), a person, including the complainants, the respondent, commission members, a committee chair or vice chair, or staff to the commission or a committee, may not disclose the existence of a complaint, a response, nor any information concerning any alleged violation that is the subject of a complaint.
- (b) The restrictions in Subsection (1)(a) do not apply to:
  - (i) a complaint or response that is publicly released by the commission and referred to an ethics committee for review under the procedures and requirements of JR6-4-204, and the allegations contained in the publicly released complaint or response; or
  - (ii) the respondent's voluntary disclosure of a finding by the commission that no allegations in a complaint were proved, after that finding is issued by the commission under the procedures and requirements of JR6-4-204.

(c) Nothing in this rule prevents a person from disclosing facts or allegations about potential criminal violations to law enforcement authorities.

(2) A person who violates the provisions of Subsection (1)(a) is in contempt of the Legislature and proceedings may be initiated to enforce the finding of contempt using the procedures provided in JR6-2-304 and Section 36-14-5.

(3) If the existence of an ethics complaint is publicly disclosed during the period that the Independent Legislative Ethics Commission is reviewing the complaint, the complaint shall be summarily dismissed without prejudice.

## **CHAPTER 4. PROCEDURES FOR REVIEWING ETHICS COMPLAINTS**

### **Part 1. Initial Review of Ethics Complaint and Response**

#### **JR6-4-101. Review of Ethics Complaint for Compliance with Form Requirements -- Independent Requirements for Complaint -- Notice.**

(1) Within five business days after receipt of a complaint, the staff of the Independent Legislative Ethics Commission, in consultation with the chair of the commission, shall examine the complaint to determine if it is in compliance with JR6-2-201 or JR6-3-101.

(2) (a) If the chair determines that the complaint does not comply with JR6-2-201 or JR6-3-101, the chair shall:

(i) return the complaint to the first complainant named on the complaint with:

(A) a statement detailing the reason for the non-compliance; and

(B) a copy of the applicable legislative rules; and

(ii) notify the President of the Senate and the chair and vice-chair of the Senate Ethics Committee, if the legislator named in the complaint is a Senator, or the Speaker of the House of Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator named in the complaint is a Representative, that:

(A) a complaint was filed against a member of the Senate or House, respectively, but was returned for non-compliance with legislative rule; and

(B) the fact that a complaint was filed and returned shall be kept confidential until the commission submits its annual summary data report as required by JR6-2-104.

(b) If a complaint is returned for non-compliance with the requirements of this title, the complainants may file another complaint if the new complaint independently meets the requirements of JR6-3-101, including any requirements for timely filing.

(3) If the chair determines that the complaint complies with the requirements of this rule, the chair shall:

(a) accept the complaint;

(b) notify the President of the Senate and the chair and vice-chair of the Senate Ethics Committee, if the legislator named in the complaint is a Senator, or the Speaker of the House of Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator named in the complaint is a Representative, that:

(i) a complaint has been filed against an unidentified member of the Senate or House, respectively;

(ii) the identity of the legislator and the allegations raised in the complaint are

confidential pending the commission's review of the complaint; and

(iii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via:

(A) a recommendation that an allegation in the complaint be heard by a legislative ethics committee; or

(B) submission of the commission's annual summary data report as required by JR6-2-104;

(c) notify each member of the Independent Legislative Ethics Commission that the complaint has been filed and accepted; and

(d) promptly forward the complaint to the legislator who is the subject of the ethics complaint via personal delivery or a delivery method that provides verification of receipt, together with a copy of the applicable legislative rules and notice of the legislator's deadline for filing a response to the complaint.

#### **JR6-4-102. Meeting of the Independent Legislative Ethics Commission for Review of Complaint -- Procedures.**

By no later than 10 calendar days after the day on which the complaint is accepted under JR6-4-101, the commission chair shall:

(1) schedule a commission meeting on a date no later than 60 calendar days after the date on which the committee chair and vice chair accept the complaint;

(2) place the complaint on the agenda for consideration at that meeting;

(3) provide notice of the date, time, and location of the meeting to:

(a) the members of the commission;

(b) the first complainant named in the complaint; and

(c) the respondent; and

(4) provide a copy of the complaint to each member of the commission.

#### **JR6-4-103. Response to Ethics Complaint -- Filing -- Form.**

(1) The legislator that is the subject of the complaint may file a response to the complaint no later than 30 days after the day on which the legislator receives delivery of the complaint.

(2) The respondent shall file the response with the commission and shall ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense to be provided by one or more affidavits, each of which shall comply with the following format:

(A) the name, address, and telephone number of the signer;

(B) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(C) the facts and circumstances testified to by the signer;

(D) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(E) the signature of the signer;

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

- (A) copies of official records or documentary evidence; or
- (B) one or more affidavits, each of which shall comply with the following format:
  - (I) the name, address, and telephone number of the signer;
  - (II) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;
  - (III) the facts and circumstances testified to by the signer;
  - (IV) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and
  - (V) the signature of the signer;
- (c) a list of the witnesses that the respondent wishes to have called, including for each witness:
  - (i) the name, address, and, if available, telephone number of the witness;
  - (ii) a brief summary of the testimony to be provided by the witness; and
  - (iii) a specific description of any documents or evidence the respondent desires the witness to produce;
  - (d) a statement that the respondent:
    - (i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and
    - (ii) believes the contents of the response to be true and accurate; and
  - (e) the signature of the respondent.
- (3) Promptly after receiving the response, the commission shall provide copies of the response to:
  - (a) each member of the commission; and
  - (b) the first named complainant on the complaint.

## **Part 2. Review of Ethics Complaint by the Independent Legislative Ethics Commission**

### **JR6-4-201. Review of Ethics Complaint by the Independent Legislative Ethics Commission.**

(1) The scope of the Independent Legislative Ethics Commission's review is limited to the alleged violations stated in the complaint.

(2) (a) Before holding the meeting for review of the complaint, the commission chair may schedule a separate meeting of the commission for the purposes of:

- (i) hearing motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures;
- (ii) holding a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint; or
- (iii) reviewing a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because it pleads facts or circumstances against a legislator that have already been reviewed by the commission or an ethics committee as provided in JR6-2-201.

(b) Notwithstanding JR6-4-102, the commission may, by a majority vote, change the date of the meeting for review of the complaint in order to accommodate:

- (i) a meeting authorized under Subsection (2)(a); or
- (ii) necessary scheduling requirements.



(3) (a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this title.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of JR6-2-302.

(4) (a) All meetings and hearings authorized in this part are closed to the public.

(b) The following individuals may be present during the presentation of testimony and evidence to the commission:

(i) the complainants, except that no more than three complainants may be present at one time;

(ii) complainants' counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(c) The complainants, respondent, and their respective counsel may be excluded from a portion of the meeting when the commission discusses administrative, procedural, legal, or evidentiary issues by:

(i) the order of the chair, subject to override as provided in JR6-2-302; or

(ii) a majority vote of the commission.

(d) When the commission deliberates at the conclusion of presentation of testimony and evidence, the commission shall ensure that those deliberations are closed to all persons except for the members of the commission and commission staff.

(5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the commission shall:

(a) adjourn and continue the meeting to a future date and time after notice to the parties; and

(b) establish that future date and time by majority vote.

#### **JR6-4-202. Record -- Recording of Meetings.**

(1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in any meeting authorized by this part.

(b) (i) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) If the commission elects, by a majority vote, to release the commission's recommendation in a public meeting, the meeting may, upon a majority vote of the commission, be opened to cameras or other recording devices.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of the meeting or hearing is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence by the commission;

(c) copies of any documents or written orders or rulings issued by the chair or the

commission; and

(d) any other information that a majority of the commission or the chair directs.

(3) Except for the recommendation prepared by the commission, which shall be either a private or public record as determined in JR6-4-204, any recording, testimony, evidence, or other record of a meeting authorized by this part is a private record under Section 63G-2-302 and may not be disclosed.

**JR6-4-203. Process for Making a Decision -- Deliberations.**

(1) After each party has presented a closing argument, the commission shall, at the direction of the chair, begin its private deliberations:

(a) immediately after conclusion of the closing arguments; or

(b) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.

(2) (a) The chair of the commission shall conduct the deliberations.

(b) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote of the commission.

(3) (a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating whether the allegation is:

(i) proven by a preponderance of the evidence; or

(ii) not proven.

(b) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.

(4) (a) A count is not considered to be proven unless four of the five members of the commission vote that the count is proven.

(b) A count that is not considered to be proven is dismissed.

(c) (i) Before the commission issues its recommendation under JR6-4-204, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(ii) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation was not proved.

(5) At the conclusion of deliberations, the commission shall prepare its recommendations as provided in JR6-4-204.

**JR6-4-204. Recommendations of Commission.**

(1) If the commission determines that no allegations in the complaint were proved, the commission shall:

(a) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have been proved;

(b) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Section 63G-2-302;

(c) provide notice of the determination, in a manner determined by a majority vote of the commission, to:

(i) the respondent; and

(ii) the first complainant named on the complaint; and

(d) provide notice to each person named in Subsection (1)(c) that, under the provisions of

JR6-3-102 and other provisions of this title, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the Legislature and is subject to penalties for contempt.

(2) If the commission determines that one or more of the allegations in the complaint were proved, the commission shall:

(a) if one or more allegations were not found to have been proven, enter into the record an order dismissing those unproven allegations;

(b) prepare a written recommendation to the Senate Ethics Committee, if the respondent is a Senator, or to the House Ethics Committee, if the respondent is a Representative, that:

(i) lists the name of each complainant;

(ii) lists the name of the respondent;

(iii) states the date of the recommendation;

(iv) for each allegation that was found to be proven:

(A) provides a reference to the code of conduct or criminal provision allegedly violated;

(B) states the number and names of commission members voting that the allegation was proved and the number and names of commission members voting that the allegation was not proved;

(C) at the option of those members voting that the allegation was proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was proved, provided that the statement does not cite specific evidence, specific testimony, or specific witnesses; and

(D) at the option of those members voting that the allegation was not proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was not proved, provided that the statement does not cite specific evidence, specific testimony, or specific witnesses;

(v) contains any general statement that is adopted for inclusion in the recommendation by a majority of the members of the commission;

(vi) contains a statement referring the allegations found to have been proved to the appropriate ethics committee for review;

(vii) states the name of each member of the commission; and

(viii) is signed by each commission member;

(c) direct staff to publicly release the recommendation, the complaint, and the response, subject to the redaction of any allegations that were dismissed by the commission; and

(d) classify all other recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings and hearings authorized by this part as private records under Section 63G-2-302.

(3) The commission shall ensure that a copy of the recommendation is made publicly available and promptly provided to:

(a) the respondent, together with notice that the respondent may amend the respondent's witness list as provided in JR6-4-301;

(b) the first complainant named on the complaint, together with notice that the complainants may amend their witness list as provided in JR6-4-301; and

(c) the chair and vice chair of the Senate Ethics Committee, if the respondent is a Senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a Representative.

(4) The commission shall ensure that, within five business days of the date of issuance of the recommendation:

(a) the complaint and the response are redacted to remove references to those allegations found not to have been proven by the commission, if one or more allegations were found not to have been proven; and

(b) the following documents are made publicly available and are provided to the chair and vice chair of the Senate Ethics Committee, if the respondent is a Senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a Representative:

(i) a cover letter referring the allegations contained in the edited complaint to the ethics committee for the committee's review;

(ii) a copy of the edited complaint;

(iii) a copy of the edited response; and

(iv) a copy of the recommendation.

### **Part 3. Review of Ethics Complaint by Ethics Committee**

#### **JR6-4-301. Receipt of Recommendation from Independent Legislative Ethics Commission -- Scheduling of Ethics Committee Hearing -- Amendments.**

(1) Within five calendar days of the date that the chair of the Senate Ethics or House Ethics Committee receives the commission's recommendation as provided under JR6-4-204, the chair and vice chair of the committee shall:

(a) schedule a committee hearing to review the complaint on a date no later than 30 days after the day on which the committee receives the recommendation; and

(b) place the ethics complaint on the agenda for consideration at that hearing.

(2) (a) The complainants may not amend the complaint.

(b) The respondent may not amend the response.

(c) The complainant and respondent may file with the committee, within 10 days of the date of issuance of the commission's recommendations, an amended list of witnesses and evidence that they wish to have subpoenaed by the committee.

#### **JR6-4-302. Review of Ethics Complaint by Ethics Committee.**

(1) The scope of the committee's review is limited to the alleged violations found to have been proven by the commission, as pled in the edited complaint and the edited response provided by the commission.

(2) (a) Before holding the hearing for review of the complaint as scheduled in JR6-4-301, the chair may schedule a separate meeting of the committee to:

(i) hear motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures; or

(ii) hold a vote of the committee, with or without the attendance of the parties, on procedural or committee business matters relating to a complaint.

(b) Notwithstanding JR6-4-301, the committee may, by a majority vote, change the date of the hearing scheduled in JR6-4-301 in order to accommodate:

(i) a meeting authorized under Subsection (2)(a); or

(ii) necessary scheduling requirements.

(3) (a) The committee shall comply with the Utah Rules of Evidence, except where the

committee determines, by majority vote, that a rule is not compatible with the requirements of this title.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of JR6-4-202.

(4) (a) A meeting or hearing held under this Chapter 4, Part 3, Review of Ethics Complaint by Ethics Committee:

(i) is subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) may be closed by a majority vote of the committee, held in the public portion of the meeting, for:

(A) any purpose permitted under Section 52-4-205;

(B) the purpose of discussing legal, evidentiary, or procedural matters with the committee or staff; or

(C) deliberations, as provided in JR6-4-304.

(b) Only committee members, committee staff, and necessary security personnel may attend a closed meeting.

(5) If a majority of the committee determines that a continuance of a meeting or hearing is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of committee members, witnesses, or a party, the chair or committee shall:

(a) adjourn and continue the hearing or meeting to a future date and time; and

(b) establish that future date and time by majority vote.

#### **JR6-4-303. Record -- Recording of Meetings.**

(1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in any meeting authorized by this part.

(b) (i) The committee shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) If the committee elects, by a majority vote, to release the committee's finding and order in a public meeting, that meeting may, upon a majority vote of the committee, be opened to cameras or other recording devices.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of each hearing or meeting is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence;

(c) copies of any documents, written orders, or written rulings issued by the chair or the committee; and

(d) any other information that a majority of the committee or the chair directs.

(3) (a) Except as provided in Subsection (3)(b), all recordings, testimony, evidence, and other records of meetings and hearings authorized by this part are public records.

(b) All recordings, minutes, and other records produced during a closed meeting authorized under this part are classified as private records under Section 63G-2-302.

#### **JR6-4-304. Process for Making a Decision -- Deliberations -- Voting in Public Meeting.**

(1) After each party has presented a closing argument, the committee shall deliberate in a closed meeting:

(a) immediately after conclusion of the closing arguments; or  
(b) at a future meeting of the committee, on a date and time determined by a majority of the members of the committee.

(2) The chair of the committee shall conduct the deliberations.

(3) During the deliberations, committee members may:

(a) discuss evidence and testimony;  
(b) discuss and debate whether an allegation was proven or not proven;  
(c) discuss and debate what actions should be taken or not taken against the respondent in relation to each allegation;

(d) discuss and debate any other matter related to the allegations in the complaint that is before the committee; and

(e) conduct, at the call of the chair or a majority of the members of the committee, a non-binding straw poll on any matter related to the complaint.

(4) (a) Notwithstanding JR6-2-306, and except as provided in Subsection (4)(b), from the time of completion of closing arguments through the time that the written finding and order are publicly issued, a committee member may not discuss any of the following matters with any other person outside of official committee deliberations:

(i) the substance or specifics of the allegations, testimony, or evidence of the complaint under review;

(ii) a committee member's intended vote;

(iii) a committee member's recommendation for actions to be taken or not taken against the respondent in relation to the complaint; or

(iv) any other non-administrative matter related to the complaint.

(b) During deliberations, committee members may privately consult with staff for the purpose of discussing legal, evidentiary, or procedural matters.

(5) Deliberations shall continue until they are concluded or continued to another date and time:

(a) at the direction of the chair, subject to JR6-2-302; or

(b) upon a motion approved by a majority of the committee members.

#### **JR6-4-305. Vote on Allegations and Recommendations -- Public Meeting -- Standards -- Reconsideration.**

(1) After conclusion of the deliberations, the committee shall meet in public and, for each allegation reviewed by the committee, vote on whether the allegation is:

(a) proven by clear and convincing evidence; or

(b) not proven.

(2) For any count that has been voted as proven, the committee shall, by a motion approved by a majority of the members of the committee, recommend one or more of the following actions:

(a) censure;

(b) expulsion;

(c) denial or limitation of any right, power, or privilege of the respondent, if, under the Utah Constitution, the Senate or House may impose that denial or limitation, and if the violation

bears upon the exercise or holding of any right, power, or privilege; or

(d) any other action that the committee determines is appropriate.

(3) Votes shall be taken by verbal roll call and each member's vote shall be recorded.

(4) A count is not considered to be proven unless a majority of the committee votes that the count is proven.

(5) The committee, by a motion for reconsideration that is approved by a majority of the committee, may reconsider and hold a new vote provided that:

(a) a motion to reconsider a vote on whether an allegation was proven or not proven may only be made by a member of the committee who voted that the allegation was not proven; and

(b) a motion to reconsider a vote recommending an action against the respondent may only be made by a member of the committee who voted against the recommendation.

(6) A count that is not voted as "proven" by a majority of the members of the committee is dismissed.

(7) The committee may close the meeting for the purposes of further deliberations, subject to the requirements of JR6-4-304:

(a) at the direction of the chair, subject to override by the committee as provided in JR6-2-302; or

(b) upon a motion approved by a majority of the members of the committee.

(8) After a final vote has been cast on each allegation and recommendation, the committee shall prepare the finding and order as provided in JR6-4-306.

#### **JR6-4-306. Finding and Order.**

(1) (a) If the committee determines that no allegations in the complaint were proved, the committee shall prepare a finding and order that:

(i) lists the name of each complainant;

(ii) lists the name of the respondent;

(iii) states the date of the finding and order;

(iv) for each allegation contained in the complaint:

(A) provides a reference to the code of conduct or criminal provision alleged to have been violated; and

(B) states the number and names of committee members voting that the allegation was proved and the number and names of committee members voting that the allegation was not proved;

(v) order that the complaint is dismissed because no allegations in the complaint were found to have been proved;

(vi) provide any general statement that is adopted for inclusion in the recommendation by a majority of the committee members; and

(vii) states the name of each committee member.

(b) Each committee member shall sign the finding and order.

(2) (a) If the committee determines that one or more allegations in the complaint were proved, the committee shall issue a finding and order that:

(i) lists the name of each complainant;

(ii) lists the name of the respondent;

(iii) states the date of the finding and order;

(iv) for each allegation contained in the complaint:

(A) provides a reference to the code of conduct or criminal provision alleged to have been violated;

(B) states the number and names of committee members voting that the allegation was proved and the number and names of committee members voting that the allegation was not proved;

(C) if the allegation was not found to have been proven, orders that the allegation be dismissed; and

(D) if the allegation was found to have been proven, contains:

(I) a description of any actions that the committee recommended be taken;

(II) the number and names of committee members voting in favor of each recommendation and the number and names of committee members voting against each recommendation;

(III) at the option of those members voting in favor of a recommendation, a statement by one or all of those members stating the reasons for making the recommendation; and

(IV) at the option of those members against a recommendation, a statement by one or all of those members stating the reasons for opposing the recommendation;

(v) contains any general statement that is adopted for inclusion in the finding and order by a majority of the committee members;

(vi) contains a statement directing that the finding be delivered to:

(A) for the Senate Ethics Committee, to the President of the Senate, the Senate majority leader, and the Senate minority leader; or

(B) for the House Ethics Committee, to the Speaker of the House of Representatives, the House majority leader, and the House minority leader; and

(vii) states the name of each committee member.

(b) Each committee member shall sign the finding and order.

(3) A copy of the finding and order shall be made publicly available.

(4) A written copy of the finding and order shall be provided to:

(a) the respondent;

(b) the first complainant named on the complaint; and

(c) any individuals required to receive a copy as stated in the finding and order.

## **CHAPTER 5. ACTION BY SENATE OR HOUSE ON ETHICS COMMITTEE RECOMMENDATION**

### **JR6-5-101. Senate and House Action.**

(1) The Senate or House shall:

(a) consider the recommendations of the ethics committee; and

(b) by a majority vote of that house, either accept, dismiss, or alter these recommendations.

(2) If the committee recommends expulsion of a Senator or Representative, acceptance of this recommendation requires a two-thirds vote of all the members elected to the Senate or to the House.



## **CHAPTER 6. COMMUNICATIONS WITH OTHER BRANCHES OF GOVERNMENT**

### **JR6-6-101. Communications with the Judiciary.**

(1) As used in this section, "final decision or order" means a decision or order that determines the rights of the parties and concerning which appellate remedies have been exhausted or the time for appeal has expired.

(2) (a) A legislator may not communicate, either verbally or in writing, with a judge in reference to a particular judicial case or proceeding until a final decision or order has been made on the matter.

(b) Inquiries to the judiciary that are merely technical or logistical in nature should be made with the Administrative Office of the Courts or a clerk of the court.

### **JR6-6-102. Exceptions -- Acting in Normal Course of Private Employment.**

The restrictions in this chapter shall not apply to a communication that a legislator makes with the judiciary in the normal course of the legislator's private employment, provided that the legislator does not use his or her status as a legislator in an attempt to unduly influence the judiciary.